

consider 83-C

NOTICE ASSIGNMENT CONTROL SHEET

LOG CONTROL NUMBER: 79

ANALYST

ASSIGNED: HYLER

ACTION: OT

TITLE: NOTICE OF FINAL REQUIREMENTS AND SELECTION
CRITERIA AND NOTICE ANNOUNCING APPLICATION
DEADLINE FOR OSERS/OSEP - INDIVIDUALS WITH
DISABILITIES EDUCATION ACT PAPERWORK WAIVER
DEMONSTRATION PROGRAM

RECEIVED: 1/31/07

DATE ASSIGNED: 1/31/07

DATE DUE: 2/9/07

ANALYST SIGNATURE:

James Hyler

COMPLETION DATE:

7/6 Final Rule published
Note: OLC didn't make us send
them before approval letter

FINAL APPROVAL:

James Hyler

DATE:

I had
approved

OMB NO:

1820-0028

REG PART:

change in selection criteria
to incorporate new Edgar requirements
& the 4 additional requirements
need to do this yr. due
to reauthorization -
info for Congress

Rudolph, Kim

From: Johnson, Janet
Sent: Wednesday, January 31, 2007 4:11 PM
To: Winters, Deborah; Faulkner, Janice; Jeffrey, Scott; Hokanson, Charles; Wade, Maria; Cubarrubia, Archie; Henderson, Carrie; McFadden, Elizabeth; Higgins, Shannan; Sheridan, Suzanne; McGrath, Jack; Cogdill, David; Rudolph, Kim; Harding, Natasha
Cc: Tada, Wendy; Arrington, Angela; Hyler, James; Mullan, Kate; Howard, Khriss; Winston, Melanie; Sturdivant, Debra; Gonzalez, Patricia
Subject: Request for Clearance for OSERS/OSEP--IDEA Paperwork Waiver Final Requirements and Application Notice (CFDA No. 84.326P)

Please review the attached draft **Notice of Final Requirements and Selection Criteria** and **Notice Announcing Application Deadline** for OSERS/OSEP--Individuals with Disabilities Education Act Paperwork Waiver Demonstration Program (CFDA No. 84.326P). Send me your comments and/or concurrence by **Friday, February 9**. Thank you.

Note: The application notice includes the following priorities from the Secretary's Policy Priorities for Discretionary Grant Programs for FY 2007 and FY 2008.

- Priority 6 -- School Districts with Schools in Need of Improvement, Corrective Action, or Restructuring
- Priority 7 -- Student Achievement Data



326P PW Final
Requirements and...



326P Paperwork
Waiver-Applicat...



326P--Clearance
Sheet.doc

Janet Johnson
U.S. Department of Education
Regulatory Services Division/OGC
(202)401-8300 -- (202)260-5093-Fax

REGULATIONS CLEARANCE SHEET
OFFICE OF THE GENERAL COUNSEL
DIVISION OF REGULATORY SERVICES (DRS)

DRAFT NO.: 1

DATE: January 31, 2007

Please review the attached document, check the appropriate box below, sign, and return with your comments, if any, or e-mail your response and any comments to Janet Johnson (Rm.6C124). Your response is due by Friday, February 9.

Office of the Secretary*

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[X] Janice Faulkner, 7W223

Program Attorney/DEER

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Office of the Deputy Secretary*

[X] Scott Jeffrey, 7W316
cc: Wendy Tada

Legislation & Congressional Affairs*

[X] Jack McGrath, 6W332

Office of Planning, Evaluation & Policy Development*

[X] Charles Hokanson
[X] Budget Service, Maria Wade, 5W311

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[X] Kim Rudolph, 9152 PCP
cc: Angela Arrington
cc: James Hyler
cc: Kate Mullan
[] Dianne Novick, RIMS

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Special Education &

Rehabilitative Services

cc: Melanie J. Winston, 5061 PCP
cc: Debra Sturdivant, 4106 PCP
cc: Patricia Gonzalez

Deputy Assistant General Counsel/DRS

[X] Shannan Higgins, 6C135

Program Contact: Debra Sturdivant

Scheduler: Melanie J. Winston

CHECK ONE

- | |
|--|
| <p>[] Approved
[] Approved subject to minor changes
[] Not approved--see comments</p> |
|--|

TYPE AND TITLE OF DOCUMENT: Notice of Final Requirements and Selection Criteria and Notice Announcing Application Deadline for OSERS/OSEP--Individuals with Disabilities Education Act Paperwork Waiver Demonstration Program (CFDA No. 84.326P)

SIGNATURE: _____ DATE: _____

COMMENTS: _____

4000-01-U

DEPARTMENT OF EDUCATION

RIN 1820-ZA42

The Individuals with Disabilities Education Act Paperwork
Waiver Demonstration Program

AGENCY: Office of Special Education and Rehabilitative
Services, Department of Education.

ACTION: Notice of final additional requirements and
selection criteria.

SUMMARY: The Assistant Secretary for Special Education and
Rehabilitative Services announces additional requirements
and selection criteria for a competition in which the
Department will select up to 15 States to participate in a
pilot program, the Paperwork Waiver Demonstration Program
(Paperwork Waiver Program). State proposals approved under
this program will create opportunities for participating
States to reduce paperwork burdens and other administrative
duties in order to increase time for instruction and other
activities to improve educational and functional results
for children with disabilities, while preserving students'
civil rights and promoting academic achievement. The
Assistant Secretary will use these additional requirements

and selection criteria for a single, one-time-only competition for this program.

EFFECTIVE DATE: These priorities are effective (INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER).

FOR FURTHER INFORMATION CONTACT: Patricia Gonzalez, U.S. Department of Education, 400 Maryland Avenue, SW., room 4078, Potomac Center Plaza, Washington, DC 20202-2700.

Telephone: (202) 245-7355 or by e-mail:

Patricia.Gonzalez@ed.gov

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under FOR FURTHER INFORMATION CONTACT.

SUPPLEMENTARY INFORMATION:

We published a notice of proposed requirements and selection criteria for the Paperwork Waiver Program in the Federal Register on December 19, 2005 (70 FR 75161) (December 2005 Notice).

On December 3, 2004, President Bush signed into law Public Law 108-446, 118 Stat. 2647, the Individuals with Disabilities Education Improvement Act of 2004, reauthorizing and amending the Individuals with Disabilities Education Act (Act). This new law reflects the importance of strengthening our Nation's efforts to ensure every child with a disability has available a free appropriate public education (FAPE) that is (1) of high quality and (2) designed to achieve the high standards established in the No Child Left Behind Act of 2001 (NCLB).

The Paperwork Waiver Program is one of two demonstration programs authorized under the new law that is designed to address parents', special educators' and States' desire to reduce excessive and repetitious paperwork, administrative burden, and non-instructional teacher time and, at the same time, to increase the resources and time available for classroom instruction and other activities focused on improving educational and functional results of children with disabilities.

Paperwork burden in special education affects (1) the time school staff can devote to instruction or service provision and (2) retention of staff, particularly special education teachers. In 2002, the Office of Special

Education Programs (OSEP) funded a nationally representative study of teachers' perceptions of sources of paperwork burden, the hours devoted to these activities, and possible explanations for variations among teachers in the hours devoted to these tasks. Among the findings related to the Individualized Education Program (IEP), student evaluations, progress reporting, and case management was that teachers whose administrative duties and paperwork exceeded four hours per week were more likely to perceive these responsibilities as interfering with their job of teaching. Moreover, the study found that the mean number of hours reported by teachers to be devoted to these tasks was 6.3 hours per week. However, data from the study also suggested that there was considerable variation in the amount of time special education teachers devoted to paperwork. For example, the average hours spent on administrative duties and paperwork varied significantly by geographic region, with the Northeast having the lowest paperwork burden.

Through the Paperwork Waiver Program, established under section 609(a) of the Act, the Secretary may grant waivers of certain statutory and regulatory requirements under part B of the Act to not more than 15 States,

including Puerto Rico, the District of Columbia, and the outlying areas (States) based on State proposals to reduce excessive paperwork and non-instructional time burdens that do not assist in improving educational and functional results for children with disabilities. The Secretary is authorized to grant these waivers for a period of up to four years.

Although the purpose of the Paperwork Waiver Program is to reduce the paperwork burden associated with the Act, not all statutory and regulatory requirements under part B of the Act may be waived. Specifically, the Secretary may not waive any statutory or regulatory provisions relating to applicable civil rights requirements or procedural safeguards. Furthermore, waivers may not affect the right of a child with a disability to receive FAPE. In short, State proposals must preserve the basic rights of students with disabilities.

Statutory Requirements for Paperwork Waiver Program

As outlined in the December 2005 Notice, the Act establishes the following requirements to govern the Paperwork Waiver Program proposals:

1. States applying for approval under this program must submit a proposal ~~to~~ reduce excessive paperwork and

non-instructional time burdens that do not assist in improving educational and functional results for children with disabilities.

2. A State submitting a proposal for the Paperwork Waiver Program must include in its proposal a list of any statutory requirements of, or regulatory requirements relating to, part B of the Act that the State desires the Secretary to waive, in whole or in part (not including civil rights requirements and procedural safeguards as noted elsewhere in this notice); and a list of any State requirements that the State proposes to waive or change, in whole or in part, to carry out the waiver granted to the State by the Secretary. Waivers may be granted for a period of up to four years.

3. The Secretary is prohibited from waiving any statutory requirements of, or regulatory requirements relating to procedural requirements under section 615 of the Act or applicable civil rights requirements. A waiver may not affect the right of a child with a disability to receive FAPE (as defined in section 602(9) of the Act).

4. The Secretary will not grant any waiver to a State if the Secretary has determined that the State currently meets the conditions under section 616(d)(2)(A)(iii) or

(iv) of the Act relative to its implementation of part B of the Act.

5. The Secretary will terminate a State's waiver granted as part of this program if the Secretary determines that the State (a) needs assistance under section 616(d)(2)(A)(ii) of the Act and that the waiver has contributed to or caused the need for assistance; (b) needs intervention under section 616(d)(2)(A)(iii) of the Act or needs substantial intervention under section 616(d)(2)(A)(iv) of the Act; or (c) fails to appropriately implement its waiver.

Background for Additional Requirements and Selection
Criteria

While the Act establishes the foregoing requirements, it does not provide for other requirements that are necessary for the implementation of this program. Accordingly, in the December 2005 Notice, we proposed additional Paperwork Waiver Program requirements to address program implementation issues as well as selection criteria that we will use to evaluate State proposals for this program.

In this notice, we also establish requirements with which States must comply that will allow the Department to

evaluate the effectiveness of the Paperwork Waiver Program. Under section 609(b) of the Act, the Department is required to report to Congress on the effectiveness of this program. To accomplish this, the Institute of Education Sciences (IES) will conduct an evaluation using a quasi-experimental design that collects data on the following outcomes: (a) educational and functional results (including academic achievement) for students with disabilities, (b) allocation and engagement of instructional time for students with disabilities, (c) time and resources spent on administrative duties and paperwork requirements by teaching and related services personnel, (d) quality of special education services and plans incorporated in IEPs, (e) teacher, parent, and administrator satisfaction, (f) the promotion of collaboration of IEP team members, and (g) enhanced long-term educational planning for students. These outcomes will be compared between students who participate in the Paperwork Waiver Program, and students who are matched on disability and prior educational outcomes who do not participate in the paperwork waiver program. Specifics of the design will be confirmed during discussion with the evaluator, a technical workgroup, and

the participating States during the first several months of the study.

Participating States will play a crucial supportive role in this evaluation. They will, at a minimum, assist in developing the evaluation plan, assure that districts participating in the Paperwork Waiver Program will collaborate with the evaluation, provide background information on relevant State policies and practices, supply data relevant to the outcomes from State data sources (e.g., student achievement and functional performance data, complaint numbers), provide access to current student IEPs (if appropriate and paperwork waiver affects an IEP) during Year 1 of the evaluation (consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g (FERPA) and the privacy requirements under the Act), complete questionnaires and surveys, and participate in interviews. Data collection and analysis will be the responsibility of IES through its contractor. States can expect to allocate resources for this purpose at a minimum during Year 1 to assist with planning the details of the evaluation, ensuring participation of involved districts, providing access to relevant State records, and completing questionnaires or participating in interviews.

Over the course of the evaluation, participating States will receive an annual incentive payment (described in the Additional Requirements section of this notice) that will offset the cost of participating in the evaluation.

The December 2005 Notice included a background statement that described the rationale for the additional requirements and selection criteria we were proposing. This notice of final requirements and selection criteria contains several changes from the December 2005 Notice. We fully explain these changes in the Analysis of Comments and Changes section that follows.

Analysis of Comments and Changes

In response to our invitation in the December 2005 Notice, 22 parties submitted comments on the proposed additional requirements and selection criteria. In addition, we received approximately 1,200 comments that were identical in form and substance and that summarized major recommendations submitted by one of the 22 commenters referenced in the preceding sentence; we do not respond to these 1,200 comments separately. An analysis of the comments and of any changes in the additional requirements and selection criteria since publication of the December 2005 Notice follows.

We group issues according to subject. We do not address technical or other minor changes, and suggested changes that the law does not authorize us to make under the applicable statutory authority, or comments that express concerns of a general nature about the Department or other matters that are not directly relevant to the Paperwork Waiver Program.

FAPE

Comment: A few commenters recommended that the final additional requirements and selection criteria identify all of the Federal requirements that a State applying for approval under this program can propose to waive while ensuring that students with disabilities continue to receive FAPE.

One commenter recommended that States be required to explain why they are requesting that certain Federal and State requirements be waived and why they feel that such waivers can be accomplished without denying FAPE.

Discussion: The commenters misunderstand the statutory obligation, which is to ensure that the Paperwork Waiver Program does not affect the right of a child to receive a FAPE, not to ensure that children continue to receive a FAPE. In general, States are in a better position to

identify Federal and State requirements that, in practice, do not assist in improving educational and functional results for children with disabilities residing in their State. States can make these determinations by taking into consideration the uniqueness of their State practices and policies, and the compliance history of local school districts within their State. We believe that the right to receive FAPE can be sufficiently protected by requiring that parents provide voluntary informed written consent for any change in policies or procedures under the Paperwork Waiver Program that affects the provision of FAPE to their child, such as changes to the IEP.

We do not believe that States should be required to explain why they are requesting that certain Federal and State requirements be waived. The purpose of the Paperwork Waiver Program is to provide an opportunity for States to identify ways to reduce paperwork burdens and other administrative duties that are directly associated with the requirements of the Act in order to increase the time and resources available for instruction and other activities aimed at improving educational and functional results for children with disabilities. The national evaluation will

assess the extent to which the waivers were successful in reaching these goals.

Changes: We have revised paragraph 1 of the additional requirements by revising paragraph 1(f) and adding a new paragraph 1(g) (paragraph 1(f) and 1(g) now contain language from paragraph 1(e) of the proposed additional requirements) to require that local education agencies (LEAs) obtain voluntary informed written consent from parents to waive any paperwork requirements related to the provision of FAPE, such as changes related to IEPs, and requiring that the LEA must inform the parent in writing of any differences between the requirements of the Act related to the provision of FAPE (including changes related to IEPs), the parent's right to revoke consent, and the LEA's responsibility to meet all paperwork requirements related to the provision of FAPE when the parent does not provide informed written consent, or revokes that consent. Additionally, the LEA must inform the parents that if the parents revoke consent to a waiver of paperwork requirements regarding IEPs that the LEA must conduct, within 30 calendar days of such revocation, an IEP meeting to develop an IEP that meets all requirements of section 614(d) of the Act.

Comment: Many commenters recommended revising the final additional requirements and selection criteria to require States to identify effective mechanisms for reporting and resolving adverse events, such as the denial of FAPE. These commenters also urged the Department to add a requirement that would prevent districts or schools from participating in the program if they have a demonstrated history of not complying with the Act or have experienced a disproportionate number of complaints to the State educational agency (SEA) or participated in a disproportionate number of dispute resolution processes.

Discussion: We generally agree with the commenters and will add a new requirement that State applicants describe how they will collect, report on and respond to evidence of adverse consequences. The State is obligated to ensure that children with disabilities who participate in the program continue to receive services in accordance with the Act and implementing regulations, modified only to the extent consistent with the State's approved application. States therefore should take into consideration the compliance history of LEAs within the State as part of their process for selecting LEAs to participate in the

Paperwork Waiver Program, and monitor implementation of the program and take corrective action, if needed.

Changes: Paragraph 1(c) of the additional requirements has been revised to require the State to provide an assurance that the State will collect and report to the Department and the evaluator all State complaints related to the denial of FAPE to any student with a disability, and how the State responded to this information, including the outcome of that response such as providing technical assistance to the LEA to improve implementation, or suspending or terminating the authority of an LEA to implement the Paperwork Waiver Program due to unresolved compliance problems. In addition, paragraph 1(h)(ii) of the additional requirements (paragraph 1(f)(ii) of the proposed additional requirements) has been revised to require the State to describe to the evaluator the circumstances under which district participation may be terminated.

Comment: One commenter recommended that the final additional requirements specify that the authority to implement the Paperwork Waiver Program will be terminated for any State that is found to be in noncompliance with the Act.

Discussion: We believe that the commenter's concern is addressed by the language in section 609(a)(4) of the Act. As explained in paragraph 5 of the Statutory Requirements for Paperwork Waiver Program section in this notice, the Secretary will terminate a State's waiver granted as part of this program if the Secretary determines that the State (a) needs assistance under section 616(d)(2)(A)(ii) of the Act and that the waiver has contributed to or caused the need for assistance; (b) needs intervention under section 616(d)(2)(A)(iii) of the Act or needs substantial intervention under section 616(d)(2)(A)(iv) of the Act; or (c) fails to appropriately implement its waiver.

Changes: None.

Comment: Several commenters agreed that a State should not be permitted to participate in the Paperwork Waiver Program if the State meets the conditions under section 616(d)(2)(A)(iii) or (iv) of the Act, and recommended that the additional requirements and selection criteria also limit participation in the Paperwork Waiver Program to States in which the majority of the State's schools meet Adequate Yearly Progress (AYP) under the Elementary and Secondary Education Act of 1965, as amended, 20 U.S.C. 6301 et seq. (ESEA).

One commenter recommended that the Department contact the Chief State School Officers and Special Education Directors of States that are eligible to submit a proposal for the Paperwork Waiver Program to inform them of their eligibility.

Discussion: Section 609 of the Act does not limit participation in the Paperwork Waiver Program to States that have met the requirements of the ESEA. Given that Congress did not limit eligibility in this manner, the Department does not believe it is appropriate to limit eligibility to States in which the majority of their schools meet AYP under the ESEA.

The Secretary believes that the additional requirements and selection criteria provide clear guidance as to eligibility criteria for this program, and that separate notification of eligibility to States is not necessary.

Changes: None.

Comment: None.

Discussion: As part of our internal review of the proposed additional requirements and selection criteria, we determined that it was appropriate to revise paragraph 1 of the additional requirements to better align it with the

language of the Act as specified in paragraph 1 of the Statutory Requirements for Paperwork Waiver Program section of this notice. Specifically, section 609(a)(1) of the Act specifies that the purpose of the Paperwork Waiver Program is to provide an opportunity for States to identify ways to reduce paperwork burdens and other administrative duties that are directly associated with the requirements of the Act in order to increase the time and resources available for instruction and other activities aimed at improving educational and functional results for children with disabilities.

Changes: We have revised the introductory language in paragraph 1 of the additional requirements to clarify that a State applying for approval under this program must submit a proposal to reduce excessive paperwork and non-instructional time burdens that do not assist in improving educational and functional results for children with disabilities.

Civil Rights/Procedural Safeguards

Comment: Many commenters recommended clarifying that States are prohibited from proposing any waiver of procedural safeguards under section 615 of the Act, and that the civil rights requirements that may not be waived

are not limited to provisions set forth in section 615 of the Act.

Discussion: The Secretary agrees that additional clarification is needed because the civil rights requirements that may not be waived under this program are not limited to the civil rights requirements in section 615 of the Act. Accordingly, we have revised the wording of paragraph 3 in the Statutory Requirements for Paperwork Waiver Program section of this notice to clarify that States may not propose to waive any procedural safeguards under section 615 of the Act, and may not propose to waive any applicable civil rights requirements. No changes are necessary to the final additional requirements or selection criteria in response to these comments.

Changes: None.

Comment: Many commenters recommended including the Act in the list of statutes in the definition of applicable civil rights requirements in paragraph 2 of the proposed additional requirements. In addition, one commenter recommended that the list include the U.S. Constitution, and that States should be required to add a detailed explanation of what steps they will take to ensure that children's civil rights are not violated or waived.

Discussion: Consistent with section 609 of the Act, the additional requirements and selection criteria prohibit waiving any statutory or regulatory requirements related to applicable civil rights requirements. Paragraph 2 of the additional requirements defines the term applicable civil rights as all civil rights requirements in: Section 504 of the Rehabilitation Act of 1973, as amended; Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Title II of the Americans with Disabilities Act of 1990; and the Age Discrimination Act of 1975 and their implementing regulations. We have not included the Act in the list of statutes in this definition because section 609 of the Act clearly allows States that are participating in the Paperwork Waiver Program to waive some requirements of the Act. Including the Act in this list would preclude States from waiving any Federal requirements in order to reduce the paperwork burden associated with requirements of part B of the Act and would be inconsistent with the explicit purposes of section 609 of the Act. We do not include the U.S. Constitution in the list of applicable civil rights statutes because, as a matter of law, the Act could not be interpreted to allow

for the waiver of any of the protections provided under the U.S. Constitution.

Changes: None.

Comment: One commenter expressed concern that the results of the national evaluation on the Paperwork Waiver Program could form the basis for waiving requirements of the Act in subsequent reauthorizations, which would erode civil rights protections and FAPE for children with disabilities.

Discussion: The Act provides for the Paperwork Waiver Program and directs the Secretary to report to Congress on the effectiveness of waivers granted under the program.

The national evaluation will yield the information necessary for the Department to carry out this responsibility. We cannot address what future reauthorizations of the Act will require or provide.

Changes: None.

Public Input/Parental Notification and Consent

Comment: Many commenters recommended requiring that any State that submits a proposal for the Paperwork Waiver Program must establish a committee comprised of school district personnel, and at least three parents (each representing a different disability group) to provide input on the State's proposal, including defining the terms

"excessive paperwork" and "non-instructional time burdens." In addition, many commenters recommended requiring that the State's application: (a) include a summary of the public input; (b) indicate what input the State incorporated into its proposal and who or what organization provided the suggestion; and (c) identify which stakeholders agreed and which stakeholders disagreed with each Federal and State requirement that the State proposed to waive under its proposed paperwork waiver program.

Many commenters recommended requiring States to use a variety of mechanisms to obtain broad stakeholder input, including public meetings held at convenient times and places and inviting written public comments. Similarly, two commenters observed that public input must be transparent, and involve the greatest number of stakeholders, particularly teachers, administrators, related services providers, students, and parents.

Several commenters urged the Secretary to require that (in addition to obtaining input from school and district personnel, and parents) States obtain input from representatives of parent training and information centers and community parent resource centers and parents. In addition, one commenter recommended that the Secretary

should require States to (a) obtain input from family members and advocates for children with disabilities, (b) require the State to summarize the input that it received and the type of stakeholder who submitted the input, and (c) describe how each specific proposal to waive a Federal statutory or regulatory requirement, or State requirement, would improve educational and functional results for children by reducing paperwork.

One commenter recommended that the final additional requirements and selection criteria define the kinds of paperwork that may be waived that are excessive and impose non-instructional time burdens on school personnel, and the Secretary should not allow any waiver of notices to families, reports of evaluation results, IEPs, or performance reports to parents. The commenter also recommended that (a) the State ensure that the State Parent Training and Information Center and Special Education Advisory Council support the State's application for each proposed waiver; (b) institutions of higher education work in collaboration with the State in developing its application; and (c) the State have a plan for on-going implementation review that requires data collection and the submission of interim reports to the Secretary.

One commenter recommended clarifying that any proposed State plans must comply with section 612(a)(19) of the Act requiring public participation.

One commenter recommended that the Department should clearly articulate the impact that negative public input will have on the selection criteria of a State's application, if any.

Discussion: It is not appropriate or possible for the Department to prejudge the possible impact of stakeholder input on the peer reviewers' recommendations. Likewise, we believe that States should have some flexibility in designing their process for obtaining public input. We have revised paragraph 1(a) of the additional requirements to require States to include in their proposals a description of how they involved multiple stakeholders in selecting the requirements proposed for the waiver and any specific proposals for changing those requirements to reduce paperwork, and a description of how they provided an opportunity for public comment in selecting the requirements proposed for the waiver consistent with the requirements of section 612(a)(19) of the Act. Paragraph 1(b) of the additional requirements requires the proposal to include a summary of the public comments received upon

implementing 1(a) and a description of how those comments were addressed in the proposal. Accordingly, each State's application will be judged on the extent to which the State involved multiple stakeholders and provided an opportunity for public comment in selecting the requirements proposed for the waiver.

Changes: We have revised paragraph 1(a) of the additional requirements to clarify that a State must include in its proposal a description of how the State (a) involved multiple stakeholders, including parents, children with disabilities, special education and regular education teachers, related services providers, and school and district administrators, in selecting the requirements proposed for the waiver and any specific proposals for changing those requirements to reduce paperwork, and (b) provided an opportunity for public comment in selecting the requirements proposed for the waiver. In addition, we have added a new paragraph 1(b) to the additional requirements to require the State to provide a summary of public comments and how public comments were addressed in the proposal.

Comment: Many commenters recommended that States be required to provide a detailed description of how they plan

to provide training on the paperwork waivers for administrators, teachers, related services providers, education support professionals, and parents. The commenters expressed concern that children with disabilities would be denied FAPE absent sufficient training of parents and education personnel on Federal and State requirements that are waived by the State.

Discussion: The Secretary agrees with the commenters that it is essential that parents, teachers, administrators, related services providers, and education support professionals understand what Federal and State requirements are waived by the State as part of the Paperwork Waiver Program in order to ensure proper implementation.

Changes: We have revised the additional requirements by adding a new paragraph 1(d) to require applying States to provide as part of their proposals a description of the procedures they will employ to ensure that diverse stakeholders understand the proposed elements of the State's submission for the Paperwork Waiver Program. With the addition of this new paragraph 1(d), we have redesignated paragraphs 1(d) through (f) of the proposed additional requirements as paragraphs 1(e) through (g).

Paragraphs 1(e) through (g) reflect additional changes as discussed in this preamble.

Comment: Many commenters recommended clarifying that the parents of children with disabilities should receive written notice, in addition to verbal notice, of any waiver of Federal requirements permitted under the Paperwork Waiver Program. If the State proposes to waive IEP requirements, the commenters recommended requiring that States receive informed written consent from the parents before an IEP that does not meet the requirements of section 614(d) of the Act is developed for a child with a disability. The commenters also recommended that parents should receive written notice of any State requirements that will be waived under the program, the anticipated effects of these waivers, and the protections that have been put into place to ensure that no child with a disability is denied FAPE. The commenters stressed that sending parents a list of references to Federal and State requirements that will be waived is insufficient to ensure that they are properly informed. The commenters recommended requiring that notice to parents of any waived requirements be fully explained, written in an easily understandable manner and in the parent's native language,

with an explanation of the effect of such waivers and the protections that have been put in place to ensure the provision of FAPE in the least restrictive environment, and the protection of the child's civil rights and procedural safeguards under section 615 of the Act.

Three commenters recommended eliminating the parental notification requirement altogether.

One commenter recommended requiring that the Paperwork Waiver Program include effective mechanisms for reporting to the Department adverse effects of the program, such as denial of FAPE.

Discussion: Section 609(a)(3)(B)(i) of the Act requires the State to identify any statutory or regulatory requirements related to part B of the Act that would be waived, and section 609(a)(3)(B)(ii) of the Act requires the State to identify any State requirements that would be waived. Although not specifically required under section 609 of the Act, paragraph 1(e) of the additional requirements (paragraph 1(d) of the proposed additional requirements), which requires States to ensure that parents are given notice of any statutory, regulatory, or State requirements that will be waived as part of the Paperwork

Waiver Program, is consistent with the parental notice requirements in section 615 of the Act.

We agree with the commenters that the notice containing the requirements that are being waived should be presented to parents in writing and in a manner that is understandable to parents consistent with section 615 of the Act. We have incorporated, in paragraphs 1(f) and 1(g) of the additional requirements, parent consent requirements to ensure that waivers will not result in the denial of a child's right to FAPE. We agree that States should disseminate information about how they will ensure a child's right to FAPE, and otherwise protect the child's civil rights and procedural safeguards under section 615 of the Act to participating LEAs that, in turn, should provide the information to parents. Accordingly, we have added language to paragraph 1(e) of the additional requirements (paragraph 1(d) in the proposed additional requirements) to clarify that the parental notice on what Federal and State requirements are being waived include a description of the procedures the State will employ to ensure that the child's right to FAPE is preserved and that the child's civil rights and procedural safeguards under section 615 of the Act are protected, and that such notice should be in

writing in easily understandable language and in the native language of the parent, unless it clearly is not feasible to do so.

In addition, we agree with the commenters that participating LEAs must obtain informed written consent from parents before an IEP that does not meet the requirements of section 614(d) of the Act is developed for a child with a disability. Paragraph 1(g) of the additional requirements (paragraph 1(e) of the proposed additional requirements) requires States to ensure that, in requesting voluntary informed written consent from parents, the LEA must inform the parent in writing of (i) any differences between the paperwork requirements of the Act related to the provision of FAPE, such as changes related to IEPs, (ii) the parent's right to revoke consent to waive any paperwork requirements related to the provision of FAPE at any time, (iii) the LEA's responsibility to meet all paperwork requirements related to the provision of FAPE if the parent does not provide voluntary written informed consent or revokes consent, and (iv) the LEA's responsibility to conduct an IEP meeting to develop an IEP that meets all requirements of section 614(d) of the Act within 30 calendar days if the parent revokes consent to

waiving paperwork requirements related to the content, development, review and revision of IEPs. We do not agree with commenters that the notice must include an explanation of the effects of such waivers. Section 609 of the Act does not require the State to include in such a notice specific anticipated effects of the waiver program.

Moreover, we believe that the possible benefits of including this information in the notices are outweighed by the burden. In short, we believe that children are sufficiently protected by the fact that States must ensure that the waiver program does not affect the right of a child with a disability to receive FAPE.

Changes: We have re-designated paragraph 1(d) of the proposed additional requirements as paragraph 1(e) and revised paragraph 1(e) of the final additional requirements to require States to provide assurances that each parent of a child with a disability in participating LEAs will be given written notice (in the native language of the parent, unless it clearly is not feasible to do so) of any statutory, regulatory, or State requirements that will be waived and notice of the procedures that State will employ under paragraph 1(c) (which requires that States ensure the right to FAPE and protection of due process protections

under section 615 of the Act, and applicable civil rights requirements).

In addition, we have re-designated paragraph 1(e) of the proposed additional requirements as paragraph 1(f) and revised paragraph 1(f) of the additional requirements to require that in applying for a waiver of any paperwork requirements related to the provision of FAPE, such as changes related to IEPs, applicants must assure that they will require any participating LEA to obtain voluntary informed written consent from the parents. We also have added language to paragraph 1(g) of the additional requirements (paragraph 1(e) of the proposed additional requirements) to clarify that States must ensure that in requesting voluntary informed written consent from parents, the LEA must inform the parent in writing (and in the parent's native language, unless it clearly is not feasible to do so) of (i) any differences between the paperwork requirements of the Act related to the provision of FAPE, such as changes related to IEPs, (ii) of the parent's right to revoke consent to waive any paperwork requirements related to the provision of FAPE at any time, (iii) of the LEA's responsibility to meet all paperwork requirements related to the provision of FAPE if the parent does not

provide voluntary written informed consent or revokes consent, and (iv) of the LEA's responsibility to conduct an IEP meeting to develop an IEP that meets all requirements of section 614(d) of the Act within 30 calendar days if the parent revokes consent to waiving paperwork requirements related to the content, development, review and revision of IEPs.

Comment: One commenter recommended deleting the additional requirement that States allow parents to revoke consent to an IEP that does not meet the requirements of section 614(d) of the Act as part of the Paperwork Waiver Program proposal.

One commenter recommended deleting all parental consent requirements regarding the development of an IEP that does not meet the requirements of section 614(d) of the Act as part of the Paperwork Waiver Program.

One commenter recommended that the final additional requirements clarify that parental consent is voluntary to ensure that parents are not pressured or coerced into agreeing to an IEP that does not meet the requirements of section 614(d) of the Act.

Discussion: We disagree with the commenter that LEAs should not be required to receive parental consent before

an IEP that does not meet the requirements of section 614(d) of the Act is developed. We also disagree with the commenter that parents should be prohibited from withdrawing their consent. We believe these provisions are essential to ensuring that States participating in the Paperwork Waiver Demonstration Program ensure the right to FAPE for all participating students.

We intended the reference to "informed consent" of parents in paragraph 1(e) of the proposed additional requirements to mean consent that is both informed and provided by the parents voluntarily. "Consent" in this context has the same meaning as given the term in 34 CFR §300.9. However, we agree with the commenter that additional clarification is needed to ensure that parental consent is voluntary.

Changes: As noted elsewhere in this section, we have redesignated paragraph 1(e) of the proposed additional requirements as paragraph 1(f) of the additional requirements. We also have revised that paragraph by inserting the term "voluntary" before the word "informed" and inserting the term "written" before the word "consent."

Comment: One commenter recommended that States be required to inform parents that refusing to consent to an IEP that

does not meet the requirements of section 614(d) of the Act will not affect the delivery of special education and related services to their child.

Discussion: We agree with the commenter that additional clarification is needed regarding situations where a parent refuses to provide consent for an IEP that does not meet the requirements of section 614(d) of the Act. If a parent does not provide consent for an LEA to develop an IEP that does not meet the requirements of section 614(d) of the Act, the LEA is responsible for implementing the child's current IEP that meets all of the requirements of section 614(d) of the Act.

Changes: We have revised paragraph 1(g) of the additional requirements (paragraph 1(e) of the proposed additional requirements) to make clear that the information provided to parents must explain that if the parent does not provide consent, or revokes consent, the LEA is responsible for meeting all paperwork requirements related to the provision of FAPE.

Comment: Many commenters recommended prohibiting States from proposing to waive any requirements related to IEPs, Individualized Family Services Plans (IFSPs), Procedural Safeguards Notices or Prior Written Notices as part of its

application for the Paperwork Waiver Program. The commenters also recommended that the Secretary terminate a State's waiver granted as part of this program if the Secretary determines that the State has violated any requirements related to IEPs, IFSPs, Procedural Safeguards Notices or Prior Written Notices.

Many commenters recommended that the proposed additional requirements for this program be revised to prohibit applicants from using the Paperwork Waiver Program as a vehicle for implementing multi-year IEPs that do not comply with the terms of the Department's Multi-Year IEP Demonstration Program (Multi-Year IEP Program).

Many commenters recommended that the Department prohibit States from participating in both the Paperwork Waiver Program and the Multi-Year IEP Program.

Many commenters recommended adding a requirement that any State permitted to participate in both the Multi-Year IEP Program and the Paperwork Waiver Program may not implement both programs in the same district or school.

Discussion: Section 609 of the Act does not authorize the Secretary to allow States to propose waiving any requirements of IFSPs under part C of the Act. Section 609 of the Act authorizes the Secretary only to grant waivers

of statutory requirements of, or regulatory requirements relating to, part B of the Act. In addition, sections 609 and 614(d)(5) of the Act do not preclude a State from proposing to waive requirements related to the content, development, review and revision of IEPs, nor does the Act preclude a State from proposing to incorporate elements of the Multi-Year IEP Program in its application for the Paperwork Waiver Program. We decline to make the requested changes because we believe that there are sufficient protections in the requirements for the Paperwork Waiver Program to protect a child's right to FAPE as well as to ensure that civil rights and procedural safeguard requirements are not waived.

The Act allows States to apply for the Multi-Year IEP Program and the Paperwork Waiver Program. However, we agree with the commenters that a State that receives awards for the Paperwork Waiver Program and the Multi-Year IEP Program should not be permitted to execute both programs in the same school district. We believe that this type of prohibition would allow for a more precise evaluation of each program.

Changes: A note has been added at the end of the ADDITIONAL REQUIREMENTS AND SELECTION CRITERIA section to

clarify that receipt of an award for the Paperwork Waiver Program does not preclude an applicant from applying for and receiving an award for the Department's Multi-Year IEP Program. However, a State that receives an award for both programs may not execute both programs within the same LEA.

Comment: Many commenters recommended requiring States to work with the national evaluator to convene Statewide meetings at a time and place convenient for parents and family members so that they can publicly express whether there is family satisfaction with the Paperwork Waiver Program.

Discussion: We strongly support parental involvement in the education of children, and believe that the involvement of parents and other stakeholders in the development and evaluation of the Paperwork Waiver Program is ensured through requirements established in this notice. In addition, parent satisfaction will be evaluated under the outcomes that are measured as part of the national evaluation. The evaluation contractor, working under the direction of IES and in consultation with a technical workgroup and participating States, may choose to convene Statewide public meetings as part of its research methodology to collect data on parent satisfaction.

However, we see no compelling reason to require the evaluation contractor to convene Statewide meetings at this time. The details of the national evaluation will be confirmed during discussion with the evaluator, a technical workgroup, and the participating States during the first several months of the study, including how parent satisfaction will be evaluated.

Changes: None.

National Evaluation

Comment: None.

Discussion: Based on an internal review of the description of the national evaluation in the Background for Additional Requirements and Selection Criteria section of this notice, we have determined that it is appropriate to clarify for applicants and other stakeholders that academic measures are among those student outcomes to be assessed as part of the national evaluation.

Changes: In the Background for Additional Requirements and Selection Criteria section of this notice, we have added the phrase "including academic achievement" to the outcomes to be measured by the national evaluation. Paragraph (a) of the outcomes to be measured now reads: "(a) educational

and functional results (including academic achievement) for students with disabilities."

Comment: Many commenters requested a definition of "quasi-experimental design" and an explanation of how it compares with a "rigorous research design." One commenter recommended that the evaluation include a variety of qualitative and quantitative evaluation methods (e.g., case studies, observation, cost-benefit analyses).

One commenter noted the absence of a research question within the proposed additional requirements for the national evaluation conducted by IES and asked for clarification as to why a research question was not specified.

Discussion: A quasi-experimental research design is similar to experimental research design but it lacks one key ingredient -- random assignment. In conducting the national evaluation, it may not be possible for IES to match LEAs within States according to demographic characteristics, programmatic features, and other factors in order to apply an empirical research design that randomly assigns LEAs to experimental and control groups. For example, some States may have only one large urban

school district, and a comparable control group within the State cannot be established.

Similarly, it may not be possible to match participating States according to demographic characteristics in order to establish experimental and control groups. For example, because this is a competitive program, only eligible States that apply for and are awarded authority to waive Federal and State requirements will participate in the Paperwork Waiver Program. As such, it is not possible to randomly assign States to experimental and control groups. For this reason, IES will conduct an evaluation using a rigorous quasi-experimental design (i.e., a research design that does not include random assignment of participating States and LEAs to experimental and control groups). The design will, however, allow for the collection of data on the following outcomes: (a) educational and functional results (including academic achievement) for students with disabilities, (b) allocation and engagement of instructional time for students with disabilities, (c) time and resources spent on administrative duties and paperwork requirements by teaching and related services personnel, (d) quality of special education services and plans

incorporated in IEPs, (e) teacher, parent, and administrator satisfaction, (f) the promotion of collaboration of IEP team members, and (g) enhanced long-term educational planning for students. These outcomes will be compared between students who participate in the Paperwork Waiver Program and students who are matched on disability and prior educational outcomes and do not participate in the Paperwork Waiver Program.

Given that limitations may preclude random assignment of States and LEAs to experimental and control groups, the findings from the national evaluation may largely be "descriptive" in nature rather than drawing "causal" inferences that can be reached from experimental research design, which we believe is what the commenters were referring to as "rigorous research design." That is, descriptive research has the goal of describing what, how, or why something is happening, whereas experimental research has the goal of determining whether something causes an effect. Therefore, specific research questions commonly associated with experimental research design cannot be generated a priori because independent and dependent variables associated with experimental research design cannot readily be established due to the variability

of demographic characteristics between and within States that preclude random assignment of States and LEAs to experimental and control groups. The specifics of the national evaluation design will be confirmed during discussion with the evaluator, a technical workgroup, and the participating States during the first several months of the study and might include a variety of qualitative and quantitative evaluation methods (e.g., case studies, observation, cost benefit analyses).

Changes: None.

Comment: Several commenters recommended requiring States to prohibit participation of some LEAs within the State in order to create separate experimental and control groups.

Discussion: As discussed elsewhere in this section, it may not be possible to match LEAs within States according to demographic characteristics in order to establish experimental and control groups. The specifics of the national evaluation design will be confirmed during discussion with the evaluator, a technical workgroup, and the participating States during the first several months of the study, and decisions regarding the extent to which experimental research design can be employed will be decided at that time.

Changes: None.

Comment: Many commenters recommended clarifying that all States that participate in the Paperwork Waiver Program must participate in the national evaluation conducted by IES. The commenters also recommended adding a new requirement that participating States conduct a State evaluation of the project to ensure accountability to the children and families and that the State must provide more detailed State specific data than would be required for the national evaluation. In addition, the commenters recommended that the Secretary consider the extent to which the applicant has devoted sufficient resources to conduct a State evaluation of its project and the training of administrators, educators and parents to ensure proper implementation of the proposed project.

Discussion: IES will conduct the national evaluation of the Paperwork Waiver Program. Paragraph 1(h) of the additional requirements (paragraph 1(f) of the proposed additional requirements) makes clear that participating States must cooperate fully in this national evaluation. Section 609 of the Act does not require a State evaluation under the Paperwork Waiver Program and we do not think it is appropriate to require States to conduct a State

evaluation. However, nothing in the Act or the final additional requirements or selection criteria prevents States from including a proposal to conduct a Statewide assessment of their project as part of their application, if determined appropriate by the State.

Changes: None.

Comment: Two commenters recommended deleting all requirements related to a State's participation in the national evaluation. The commenters expressed concern that such participation would add unnecessary costs and paperwork for States and local school districts and could discourage many States from applying for the Paperwork Waiver Program.

One commenter stated that it was unreasonable to expect States to allocate resources for the project to assist with planning the details of the evaluation and ensuring the participation of the involved school districts, and that it was unlikely that the research would yield reliable and valid experimental outcomes.

One commenter noted that the State lacked the authority to enforce the cooperation of school districts to participate in the national evaluation.

Discussion: IES will ensure that the national evaluation yields results that are reliable and valid. Under section 609 of the Act, the Department is responsible for reporting to Congress on the effectiveness of the waiver program. In order to accurately evaluate program effectiveness, the national evaluation is necessary, and it is appropriate for States that are granted waivers under the program, and participating LEAs, to participate in that evaluation. A State that does not provide an assurance that it will fully cooperate with the national evaluator will be deemed ineligible to participate in the Paperwork Waiver Program. Moreover, the State is responsible for ensuring that participating LEAs cooperate in the national evaluation conducted by IES. If a State is unable to provide an assurance that its participating LEAs will cooperate in the national evaluation, then the State will be deemed ineligible to participate in the Paperwork Waiver Program. Similarly, an LEA that does not provide an assurance to the applying State that it will fully cooperate with the national evaluator is ineligible to participate in the program. In addition, we believe that participation in the national evaluation will not add unnecessary costs and paperwork or be overly burdensome for States and local

school districts. Moreover, over the course of the evaluation, participating States will receive an annual incentive payment (described in the Additional Requirements section of this notice) that will offset the cost of participating in the evaluation.

Changes: None.

Comment: One commenter noted that the privacy rights of individuals under the privacy requirements of FERPA and the Act must be protected in making individual student's IEPs accessible as part of the national evaluation.

Discussion: We agree with the commenter and revise paragraph 1(h)(i) of the additional requirements to clarify that States must, consistent with the privacy requirements of FERPA and the Act, ensure that the evaluator will have access to original and all subsequent new versions of the associated documents for each child involved in the evaluation, including IEPs (if applicable). We have also revised the description of the role that States will play in the national evaluation in the SUPPLEMENTARY INFORMATION section of this notice to ensure that the privacy requirements of FERPA and the Act are protected.

Changes: We have revised paragraph 1(h)(i) of the additional requirements (paragraph 1(f)(i) of the proposed

additional requirements) by adding the words "consistent with the privacy requirements of the Act and The Family Educational Rights and Privacy Act" to the sentence requiring States to ensure that the evaluator will have access to the original and all subsequent new versions of the associated documents for each child involved in the evaluation.

Comment: Two commenters recommended revising paragraph 1(f) of the proposed additional requirements by deleting the phrase "if selected."

Discussion: Paragraph 1(f) of the proposed additional requirements (which has been re-designated as paragraph 1(h) of the additional requirements) requires States to provide assurances that they will cooperate fully, if selected, in a national evaluation of the Paperwork Waiver Program. The phrase "if selected" was intended to clarify that the requirement only applies to States that are selected to participate in the Paperwork Waiver Program; however, we agree with the commenters that the phrase is confusing. Accordingly, we have re-worded this paragraph to read, "Assurances that the State will cooperate fully in a national evaluation of this program, if selected to participate in the Paperwork Waiver Program."

Changes: As noted elsewhere, we have re-designated paragraph 1(f) of the proposed additional requirements as paragraph 1(h). We also have revised that paragraph to clarify that assurances are required from States selected to participate in the Paperwork Waiver Program.

Comment: Many commenters recommended including representatives of national parent organizations in the design of the national evaluation. The commenters stated that it is essential that stakeholders have confidence that the evaluation procedures will yield valid, reliable, and comprehensive data.

Discussion: IES will identify and select individuals with the necessary technical expertise to serve as members of the technical workgroup, which will advise IES on the development of a rigorous research design for conducting the national evaluation. These individuals may include representatives of national parent organizations. We decline at this time to include any other specific parties to those involved in determining the specifics of the evaluation design.

Changes: None.

Comment: Two commenters recommended eliminating the requirement for a State to designate a coordinator for the Paperwork Waiver Program.

Discussion: We believe that it is necessary and reasonable to ensure effective implementation and evaluation of the Paperwork Waiver Program to require States to designate a coordinator who will monitor the State's implementation of the program and work with the national evaluator.

Changes: None.

Comment: Many commenters recommended adding a new requirement that would preclude a State from authorizing school districts to begin implementing waivers until the beginning of the first school year after the specifics of the study design for the national evaluation and the State's evaluation have been determined. The commenters noted that more time was needed to work with the national evaluator on the specifics of the national study design before LEAs begin implementing the program.

One commenter recommended allowing States to establish their own implementation schedule in their proposals, and that the Department should encourage States to do so in an expeditious manner to meet the congressional expectation

that the Department issue an "effectiveness report" to the Congress by the end of 2006.

Discussion: We believe that the commenters' concerns are addressed because the evaluation design will be determined prior to implementation of the Paperwork Waiver Program. Accordingly, LEAs may not begin implementing waivers until the beginning of the first school year after the specifics of the study design for the national evaluation and the State's evaluation have been determined and all the background information for the national evaluation has been provided to IES. We believe that States should have some flexibility in the timing of their implementation and that States should not be precluded from beginning implementation of their program after the four-month planning period. However, while a State may propose to delay implementation of the Paperwork Waiver Program as part of its application, it must fully cooperate with the national evaluator in developing the specifics of the national study design.

Changes: None.

Comment: Many commenters recommended that the Department commence the national evaluation process as soon as the final evaluation design has been completed, and that the

evaluator begin collecting background information from the States at this time.

Discussion: We do not agree with the commenters that it is necessary at this time to require the national evaluation process to commence as soon as the final study design has been completed, nor do we believe that the evaluator should be required to begin collecting background information from the States at this time. Rather, specifics of the design (including matters of when data collection will commence) will be confirmed during discussion with the evaluator, a technical workgroup, and the participating States during the first several months of the study.

Changes: None.

Comment: One commenter recommended that the Department contract with an independent agency to develop a research design that would produce reliable information about the effectiveness of the Paperwork Waiver Program and meet the requirements of the Department's "What Works Clearinghouse."

Discussion: Data collection and analysis will be the responsibility of IES through its independent contractor. The Department's "What Works Clearinghouse" (WWC) collects, screens, and identifies existing studies of effectiveness

of educational interventions (programs, products, practices, and policies). The evaluation will be based on a strong quasi-experimental design that will yield valid and reliable results consistent with the WWC evidence standards for quasi-experimental studies and will meet the needs of the Secretary for reporting to Congress under section 426 of the Department of Education Organization Act and section 609(b) of the Act.

Changes: None.

Comment: Many commenters recommended that the national evaluation include collection of data on "family member" satisfaction.

Discussion: We generally agree with the commenters that the national evaluation should collect data on the satisfaction of family members of children participating in the Paperwork Waiver Program. Section 609(b) of the Act requires the Department to report to Congress on the effectiveness of the waiver program and to provide specific recommendations for broader implementation of such waivers related to five outcomes, including ensuring satisfaction of family members. In this context, the Department interprets the term "family members" to mean "parents" and intends to collect data on parent satisfaction with the

program. While the perspectives of family members, including siblings, grandparents, and other relatives can be important in making educational decisions for a child with a disability, we believe that the parents of a child with a disability are in the best position to represent the interests of their child. Moreover, while the Act provides a definition of "parent," it does not provide a definition of "family member." Parents may, at their discretion, convey the interests and perspectives of other family members in the operation of the project on behalf of their children.

Accordingly, we have included language in the background statement for the additional requirements and selection criteria in the SUPPLEMENTARY INFORMATION section of this notice to clarify that, as part of the national evaluation, IES will collect data on the extent to which program activities result in parent satisfaction. We have not made any changes to the additional requirements or selection criteria in response to these comments.

Changes: None.

Comment: One commenter recommended that the national evaluation not include collection of data on "teacher" and "administrator" satisfaction.

Discussion: Section 609 of the Act does not require the collection of data on teacher and administrator satisfaction as part of the national evaluation. However, because multiple stakeholders, including teachers and administrators, will be involved in the development and implementation of the Paperwork Waiver Program, the Secretary believes that the national evaluation should include collection of data on teacher and administrator satisfaction.

Changes: None.

Comment: Many commenters recommended that IES collect data on whether the Paperwork Waiver Program will promote collaboration of IEP team members and how long-term educational planning will be enhanced for students through the program.

Discussion: We agree with the commenters. Section 609(b) of the Act requires the Department to report on the effectiveness of the Paperwork Waiver Program and provide specific recommendations for broader implementation of such waivers related to five outcomes, including (but not limited to) promoting collaboration between IEP team members, and enhancing longer-term educational planning, in its annual report to Congress. Accordingly, we have

included language in the background statement for the additional requirements and selection criteria in the SUPPLEMENTARY INFORMATION section of this notice to clarify that, as part of the national evaluation, IES will collect data on the extent to which program activities promote collaboration among IEP team members and enhance long-range educational planning. We have not made any changes to the additional requirements or selection criteria in response to these comments.

Changes: None.

Comment: One commenter requested that we clarify the language in paragraph 1(h)(i) of the additional requirements (paragraph 1(f)(i) of the proposed additional requirements) regarding an evaluator having access to the most recent IEP created before participating in the Paperwork Waiver Program because this language implies that no initially identified child could participate in the pilot project if elements of the IEP are waived.

Discussion: Initially identified children are eligible to participate in this program. We agree that additional clarification is needed because an initially identified child would not have a previous IEP, and therefore having access to the most recent IEP would not be applicable.

Changes: Paragraph 1(h)(i) (paragraph 1(f)(i) of the proposed additional requirements) has been revised to clarify that the evaluator will have access to the most recent IEP created (if a previous IEP was created) before participating in the Paperwork Waiver Program.

Comment: One commenter recommended re-ordering the requirements with which States must comply that will allow the Department to evaluate the effectiveness of the program to parallel the requirements of section 609(b) of the Act. The same commenter also recommended limiting data collection on the effectiveness of the program related to student outcomes to educational and functional results that are "in accordance with each student's IEP".

Discussion: Section 609(a)(1) of the Act specifies that the purpose of the Paperwork Waiver Program is to provide an opportunity for States to identify ways to reduce paperwork burdens and other administrative duties that are directly associated with the requirements of the Act in order to increase the time and resources available for instruction and other activities aimed at improving educational and functional results for children with disabilities. We believe that the ordering of evaluation outcomes is sufficiently clear, and re-ordering is not

necessary. In addition, we believe that potential improvements in the educational and functional results for children with disabilities as a result of this program should not be limited to IEP goals. For example, the national evaluation could include examination of student assessment data or other indices of student progress beyond what is included in students' IEPs.

Changes: None.

Comment: Several commenters recommended eliminating some or all data collection requirements as part of the national evaluation to reduce burden and costs on States participating in the Paperwork Waiver Program.

Discussion: Section 609(b) of the Act requires the Department to report on the effectiveness of the Paperwork Waiver Program and provide specific recommendations for broader implementation of such waivers related to five outcomes. However, data collection and analysis will not be the responsibility of States. Rather, data collection and analysis will be the responsibility of IES through its contractor. States can expect to allocate resources, at a minimum during Year 1, to assist with planning the details of the evaluation, ensuring participation of involved districts, providing access to relevant State records, and

completing questionnaires or participating in interviews. Over the course of the evaluation, participating States will receive an annual incentive payment (described in the Additional Requirements section of this notice) that will offset the cost of participating in the evaluation.

Changes: None.

Comment: Many commenters recommended increasing the annual incentive payment provided to States to support program-related activities, and recommended requiring that the national evaluator provide funds to participating school districts based on the number of participating students in the evaluation.

Discussion: Paragraph 3 of the proposed additional requirements provided that each State receiving approval to participate in the Paperwork Waiver Program would be awarded an annual incentive payment of \$10,000 to be used exclusively to support program-related evaluation activities, including one trip to Washington, DC, annually to meet with the project officer and the evaluator. In addition, paragraph 3 of the proposed additional requirements indicated that each participating State would receive an additional incentive payment of \$15,000 annually from the evaluation contractor to support evaluation

activities in the State, and that incentive payments may also be provided to participating districts to offset the cost of their participation in the evaluation of the Paperwork Waiver Program. Because the total available funds for each award will depend on the number of awards made, we are unable to specify an exact amount over the initially proposed incentive payment amounts. However, the Secretary agrees with the commenters that more funds should be made available if possible and, therefore, the final additional requirements have been revised to clarify that participating States will receive at least \$10,000 to support program-related evaluation activities, and at least \$15,000 annually from the evaluation contractor to support evaluation activities in the State.

Changes: We have revised paragraph 3 of the final additional requirements to clarify that each State receiving approval to participate in the Paperwork Waiver Program will be awarded an annual incentive payment of not less than \$10,000 to support program-related evaluation activities, and not less than \$15,000 annually from the evaluation contractor to support evaluation activities in the State, to offset the cost of participating districts, or to do both. We also have added language to this

paragraph to clarify that the total available funds for each award will depend on the number of awards made.

Comment: Many commenters recommended that the Department indicate when the results of the national evaluation will be available and how they will be disseminated.

Discussion: We believe that it is not appropriate to set a timeline for disseminating the results of the national evaluation until the specifics of the national evaluation are confirmed during discussion with the evaluator, a technical workgroup, and the participating States during the first several months of the study. The information will be available to the public after the specifics of the national evaluation are confirmed.

Changes: None.

Selection Criteria

Comment: None.

Discussion: Upon internal review of the proposed selection criteria, the Department made the decision to use already established selection criteria found in the Education Department General Administrative Regulations (EDGAR) in 34 CFR 75.210 for the review of this program. In general, we did not feel that it is appropriate to include the same

measures in the selection criteria as is proposed for inclusion in the national evaluation.

Changes: Throughout the selection criteria, we have replaced or modified proposed selection criteria to better align with language from 34 CFR 75.210 of EDGAR.

Specifically, we have deleted or modified proposed selection criteria 1(b), 2(a), 2(b), 3(b) and 3(c) and added language from 34 CFR 75.210 of EDGAR.

Comment: One commenter recommended eliminating proposed selection criterion 1(a) (i.e., that the proposed project demonstrate the extent to which it will develop or demonstrate promising new strategies that build on, or are alternatives to, existing strategies).

Discussion: We decline to make the requested change because we believe that selection criterion 1(a) is an important criterion for evaluating the innovativeness of each State application for the Paperwork Waiver Program.

Changes: None.

Comment: Many commenters recommended requiring the Secretary to evaluate, separately, the significance of the proposed project in terms of how likely it would lead to reduced paperwork burden, increase instructional time, and improve academic achievement. The commenters also

recommended that the Secretary consider the likelihood that the proposed project will ensure parent satisfaction.

One commenter stated that section 609(b) of the Act anticipates "positive outcomes" for students and that the expected outcomes for the program should relate directly to the individual's annual IEP goals (educational and functional outcomes) as opposed to being limited to academic achievement.

Discussion: We believe that the commenters' concerns about the likelihood that the project will lead to reduced paperwork, increased instructional time, improved academic achievement, and will ensure parents' satisfaction is sufficiently addressed in the national evaluation.

Similarly, we believe that the comment on measuring outcomes related to the IEP is already addressed by the national evaluation. Readers are referred to the

Background for Additional Requirements and Selection

Criteria section, where all the measures by the national evaluation are listed. These measures include data on the educational and functional results of students with disabilities, the quality of the services and plans within the IEP, allocation and engagement of instructional time for students with disabilities, time and resources spent on

administrative duties and paperwork requirements by teaching and related services personnel, and parent satisfaction, among other things.

We strongly support parental involvement in all aspects of education, but believe that parental involvement in the development and evaluation of the Paperwork Waiver Program is more appropriately ensured through other additional requirements included in this notice (e.g., paragraphs 1(a) and (d) of the additional requirements) and will be addressed by the outcomes measured as part of the national evaluation conducted by IES (e.g., parent satisfaction) and selection criterion 3(c).

Changes: None.

Comment: None.

Discussion: Since publishing the December 2005 notice, we have decided to use certain selection criteria from those found in EDGAR in 34 CFR 75.210 for the review of this program. Proposed selection criterion 1(b), "The likelihood that the proposed project will result in improvements in the IEP process, especially long-term planning for children with disabilities, without compromising the provision of FAPE, satisfaction of parents, and educational outcomes for children with

disabilities" has been deleted. Upon internal review of the proposed selection criteria, we have determined that this criterion is inappropriate because it would require panel reviewers to speculate on the impact proposals would have on the variables to be measured by the national evaluation (i.e., long-term planning for children with disabilities, satisfaction of parents and educational outcomes for children with disabilities). If the relationship between certain paperwork waivers and outcome variables were known, then there would be no need for the evaluation.

We have replaced proposed selection criterion 1(b) with the following EDGAR criterion, which is from 34 CFR 75.210(b)(2)(iii): "The potential contribution of the proposed project to increased knowledge or understanding of educational problems, issues or effective strategies." This criterion will allow panel reviewers to evaluate the proposal's significance relative to how articulately or persuasively the State can connect current problems or issues with the paperwork requested for waiver. This type of evaluation and subsequent scoring of an application is commonly done in proposal review by standing panel members.

Changes: Proposed selection criterion 1(b) (i.e., The likelihood that the proposed project will result in improvements in the IEP process, especially long-term planning for children with disabilities, without compromising the provision of FAPE, satisfaction of parents, and educational outcomes for children with disabilities) has been deleted and replaced with a selection criterion from section 75.210(b)(2)(iii) of EDGAR.

Comment: Many commenters recommended that the Secretary consider the importance or magnitude of the results or outcomes likely to be attained by the project, especially improvements in teaching and student achievement.

Discussion: We agree with the commenter that the importance or magnitude of the results or outcomes likely to be attained by the project, particularly improvements in teaching and student achievement, is an important criterion in assessing the significance of a proposed project. We also agree that it is important to evaluate the effects a proposed project will have on instructional time that could lead to improvements in educational and functional outcomes for children with disabilities.

Changes: Selection criteria 1 has been amended by adding new selection criterion 1(c), which allows the Secretary to evaluate the importance or magnitude of the results or outcomes likely to be attained by the project, especially improvements in teaching and student achievement.

Comment: Many commenters recommended amending the selection criteria to ensure that the emphasis on paperwork reduction in a State's proposal includes a focus on improved student outcomes and does not come at the expense of FAPE for children with disabilities.

Discussion: We agree with the commenters that the program's emphasis on paperwork reduction should include a focus on improved student outcomes and should not come at the expense of a student's right to a FAPE. Accordingly, we have added selection criterion 1(c) and replaced proposed selection criterion 2(b) with an EDGAR selection criterion to enable the Secretary to focus on student outcomes or needs. The changes made in the additional requirements (discussed previously) provide adequate protection to students' right to a FAPE.

Changes: We have added selection criterion 1(c) to enable the Secretary to evaluate the importance or magnitude of the outcomes likely to be attained by the project. We also

have replaced proposed selection criterion 2(b) with an EDGAR selection criterion to enable the Secretary to assess the extent to which the proposed project will address the needs of the target population or other identified needs.

Comment: One commenter recommended striking selection criterion 2(c) as it seemed vague and duplicative of selection criterion 3(c).

Discussion: We agree that proposed selection criterion 2(c) is duplicative of selection criterion 3(c).

Changes: We have deleted proposed selection criterion 2(c) (i.e., the extent to which the proposed project encourages consumer involvement, including parental involvement).

Comment: Many commenters recommended that we consider the quality of the proposed project design and procedures for documenting project activities and results.

Discussion: We agree with the commenters. The design and procedures for documenting proposed activities and results of the Paperwork Waiver Program must be of high quality for evaluation purposes.

Changes: We have added a new selection criterion 2(c) (as noted elsewhere, we have deleted proposed selection criterion 2(c)) to enable the Secretary to consider the

quality of the proposed project design and procedures for documenting project activities and results.

Comment: Many commenters recommended that the Secretary consider the extent to which the proposed project was designed to involve broad parental input.

Discussion: We believe that the commenters' concerns are addressed by selection criterion 3(c), which ensures that States involve multiple stakeholders, including parents, in the implementation of their projects. Moreover, we believe that paragraphs 1(a), 1(b), 1(d), 1(e), and 1(f) of the additional requirements ensure involvement by parents in this program.

Changes: None.

Comment: Many commenters recommended that the Secretary consider the extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of children with disabilities.

Discussion: We agree that it is important to consider the extent to which the design of a project is appropriate to, and will successfully address, the needs of children with disabilities. As discussed elsewhere, we have replaced proposed selection criterion 2(b) with an EDGAR selection criterion to emphasize how well the project will address

the needs of the target population as a basis for application review.

Changes: We have replaced proposed selection criterion 2(b) with an EDGAR selection criterion to enable the Secretary to consider the extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

Comment: Many commenters recommended including the selection criterion found in section 75.210(c)(2)(v) of EDGAR, which requires the Secretary to consider the extent to which the proposed activities constitute a coherent, sustained program of training in the field.

Discussion: We decline to include the selection criterion from section 75.210(c)(2)(v) of EDGAR in the selection criteria for this program because that selection criterion applies to professional development grants and is not appropriate for the Paperwork Waiver Program.

Changes: None.

Comment: Many commenters recommended that the Secretary consider the extent to which performance feedback and continuous improvement are integral to the design of the proposed project.

Discussion: We believe that the commenters' concerns are addressed under the management plan selection criterion in paragraph 3(a) (i.e., that the Secretary consider the adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project).

Changes: None.

Comment: One commenter recommended amending the selection criteria to allow States to modify and revise their original statutory, regulatory, and administrative waiver requests during the course of the pilot project.

Discussion: We are committed to ensuring the objectivity and integrity of IES's national evaluation of the Paperwork Waiver Program. For this reason, we do not support allowing States to pursue changes to waiver activities proposed in their initial applications as this would significantly interfere with the reliability of the outcome data gathered as part of the evaluation component for this program.

Changes: None.

Comment: One commenter recommended amending the selection criteria to require States to address their commitment to cooperate in the national evaluation in their applications, but to clarify that they are not required to document the

extent to which they devoted sufficient resources to conduct data collection and analysis as part of the evaluation of the waiver program.

Discussion: We agree with the commenters that documentation of the extent to which applicants have devoted sufficient resources to the data collection and analysis of the evaluation is not necessary. The applicant's commitment to the evaluation is assessed through additional requirement 1(h). However, the specific change requested by the commenter is unnecessary since, following internal government review, we have deleted proposed selection criterion 3(b) in favor of including only approved EDGAR selection criteria.

Changes: Selection criterion 3(b) (i.e., the extent to which the applicant has devoted sufficient resources to the evaluation of the proposed project) has been deleted.

Comment: One commenter recommended that the Secretary consider how the applicant will ensure that the perspectives of children with disabilities are brought to bear in the operation of the proposed project.

One commenter recommended revising the selection criteria to ensure that the perspectives of family members

and advocates for children with disabilities are considered.

Discussion: We believe it is important to involve children with disabilities in their educational programming. We therefore agree with the commenter that it is appropriate to ensure that the perspectives of children with disabilities are brought to bear in the operation of the project. We believe that the commenters' concerns are addressed by selection criterion 3(c), which authorizes the Secretary to consider how an applicant will ensure that a diversity of perspectives, including those of "recipients or beneficiaries of services," are brought to bear in the operation of the proposed project. Children with disabilities are "recipients or beneficiaries of services" provided under this program.

We do not agree with the commenter regarding the need to involve family members and child advocates, other than the child's parents or legal guardian. While the perspectives of siblings, grandparents, other relatives, and outside advocates can be important in making educational decisions for a child with a disability, we believe that the parents of a child with a disability are in the best position to represent the interests of their

child. Parents may, at their discretion, convey the interests and perspectives of other family members and outside advocates in the operation of the project on behalf of their children.

Changes: None

Comment: Many commenters recommended that the Secretary consider the extent to which the methods of evaluation proposed by the State provide for examining the effectiveness of the project implementation strategies and provide guidance for quality assurance.

Discussion: We believe that the concerns of the commenters are addressed in the Quality of the project design selection criterion (selection criterion 2). Selection criterion 2 states that we will consider (a) the extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable; (b) the extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs; and (c) the quality of the proposed project's procedures for documenting project activities and results.

Changes: None.

Comment: Many commenters recommended that the Secretary consider the extent to which the methods of evaluation proposed by the State will provide performance feedback and permit periodic assessment toward achieving intended outcomes.

Discussion: We believe that the concerns of the commenters are addressed in selection criteria 2(a) and 3(a).

Selection criterion 2(a) provides that the Secretary will consider the extent to which the goals, objectives and outcomes to be achieved by the proposed project are clearly specified and measurable. Selection criterion 3(a) provides that we will consider the adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

Changes: None.

Comment: Many commenters recommended that the Secretary consider the extent to which the methods of evaluation proposed by the State include multiple methods for collecting data on parent satisfaction from a broad representative sample throughout the State with respect to the waivers and the usefulness of the information and training they receive.

Discussion: We believe that the evaluation of these projects is the responsibility of the national evaluation to be designed and conducted by IES in collaboration with the States. There is no requirement for the States to complete an impact evaluation of their projects independent of the national evaluation.

Changes: None.

Other Issues

Comment: One commenter recommended requiring that the design and development activities of the proposed project be completed during the course of the project period. The commenter noted that the proposed requirements for the program require States to begin to develop their model prior to the submission of the application, and that the period of the project performance would be devoted to implementation and evaluation of the program.

Discussion: Prior to submitting its application, a State must involve multiple stakeholders and convene public meetings to gather input on the Federal and State requirements that the State proposes to waive to reduce excessive paperwork and non-instructional time burdens that do not assist in improving educational and functional results for children with disabilities. The State also

must provide a summary of public comments and how the public comments were addressed in its application. Because a State must meet these minimum requirements for its application to be deemed eligible for review, it follows that the focus of the project period must be on the implementation and evaluation of the program, rather than program design and development activities.

Changes: None.

Comment: Many commenters recommended that the background for the additional requirements and selection criteria include information from the "Project Forum Proceedings on Special Education Paperwork"¹, and the "Study of Personnel Needs in Special Education (SPeNSE)"², particularly related to information regarding the geographical variation in the amount of time special education teachers devote to paperwork.

Discussion: The background for the proposed additional requirements and selection criteria included information from the SPeNSE study, although the study was not directly cited. That said, the Secretary agrees with the commenters that it is important to include in the background statement

¹ U.S. Department of Education, Office of Special Education Programs, Project Forum, Project Forum Proceedings Document, "Policy Forum: Special Education Paperwork." 2002.

² U.S. Department of Education, Office of Special Education Programs, Study of Personnel Needs in Special Education (SPeNSE), Final Report of the Paperwork Substudy. 2003.

for the additional requirements and selection criteria information from the SPeNSE study that shows the geographical variation in the amount of time special education teachers devote to paperwork. The Secretary does not believe it is appropriate to include information from the Project Forum Proceedings on Special Education Paperwork because it was not intended to be a scientific study of the time that educators spend completing special education paperwork. Accordingly, we have included information from the SPeNSE study in the background statement for the additional requirements and selection criteria in the SUPPLEMENTARY INFORMATION section of this notice. We have not made any changes to the additional requirements or selection criteria in response to these comments.

Changes: None.

Comment: Many commenters recommended clarifying that the Department will not allow any State that fails to sufficiently address all requirements under section 609 of the Act in its application to participate in the Paperwork Waiver Program.

Discussion: We will ensure that only applications that meet the requirements of section 609 of the Act are deemed eligible for approval under the program.

Changes: None.

Comment: One commenter recommended defining the term "parent" to have the meaning of the term as defined in section 602(23) of the Act.

Discussion: We intend the term "parent" to have the meaning given the term in section 300.30 of the final regulations implementing Part B of the Act (34 CFR 300.30). However, we agree that additional clarification is needed and will add a note reflecting this change.

Changes: We have revised the final additional requirements and selection criteria to include a note defining the term "parent" consistent with the definition of that term under section 300.30 of the final regulations implementing Part B of the Act (34 CFR 300.30).

Comment: One commenter recommended that States be required to use the model IEP, procedural safeguards notice, and prior written notice forms developed by the Department.

Discussion: As part of the 2004 amendments to the Act, the Congress required the Department to publish and widely disseminate model forms that are consistent with the

requirements of part B of the Act and are "sufficient to meet those requirements." Specifically, the Act requires the Department to develop forms for the IEP; the notice of procedural safeguards; and the prior written notice.

Consistent with the Act, the Department developed the three forms to assist SEAs and LEAs in understanding the content that part B of the Act requires for each of these three types of forms. The content of each of these forms is based upon the requirements set forth in the final regulations implementing part B of the Act. Although States must ensure that school districts include all of the content that part B of the Act requires for each of the documents that they provide to parents, States are not required to use the format or specific language reflected in these forms. States may choose to include additional content in their forms, so long as the additional content is consistent with all requirements under part B of the Act.

Changes: None.

Comment: One commenter recommended that States should indicate in their applications whether they will need technical assistance from the Office of Special Education Programs (OSEP) or some other entity.

Discussion: States may choose to indicate in their applications whether they will need technical assistance from OSEP in the implementation of the program. States that are awarded authority to participate in the Paperwork Waiver Program may contact OSEP for assistance. OSEP funds a number of national technical assistance centers and regional resource centers that can provide technical assistance to States in the operation of the Paperwork Waiver Program.

Changes: None.

Note: This notice does not solicit applications. We will invite applications through a separate notice in the Federal Register.

Paperwork Reduction Act of 1995

Paragraphs 1(a) through (h)(i), (ii), and (iv) of the additional requirements contain information collection requirements already approved by the Office of Management and Budget (OMB) under OMB control number 1820-0028.

Additionally, a new collection of information will be required after the Department creates the evaluation of the Paperwork Waiver Program that is discussed in paragraph 3 of the additional requirements. The public will have an opportunity to comment on the burden created by

this new collection of information as part of the OMB approval process of that collection.

ADDITIONAL REQUIREMENTS AND SELECTION CRITERIA:

Additional Requirements

The Secretary establishes the following additional requirements for the Paperwork Waiver Program.

(1) A State applying for approval under this program must submit a proposal to reduce excessive paperwork and non-instructional time burdens that do not assist in improving educational and functional results for children with disabilities. A State submitting a proposal under the Paperwork Waiver Program must include the following material in its proposal:

(a) A description of how the State met the public participation requirements of section 612(a)(19) of the Act, including how the State (1) involved multiple stakeholders, including parents, children with disabilities, special education and regular education teachers, related services providers, and school and district administrators, in selecting the requirements proposed for the waiver and any specific proposals for changing those requirements to reduce paperwork, and (2)

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provided an opportunity for public comment in selecting the requirements proposed for the waiver.

(b) A summary of public comments received in accordance with paragraph 1(a) of these additional requirements and how the public comments were addressed in the proposal.

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(c) A description of the procedures the State will employ to ensure that, if the waiver is granted, it will not result in a denial of the right to FAPE to any child with a disability, a waiver of any applicable civil rights requirements, or a waiver of any procedural safeguards under section 615 of the Act. This description also must include an assurance that the State will collect and report to the Department, as part of the State's annual performance report submission to the Secretary in accordance with section 616(b)(2)(c)(ii)(II) of the Act, and to the national evaluator, all State complaints related to the denial of FAPE to any student with a disability and how the State responded to this information, including the outcome of that response such as providing technical assistance to the LEA to improve implementation, or suspending or terminating the authority of an LEA to waive

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paperwork requirements due to unresolved compliance problems.

(d) A description of the procedures the State will employ to ensure that diverse stakeholders (including parents, teachers, administrators, related services providers, and other stakeholders, as appropriate) understand the proposed elements of the State's submission for the Paperwork Waiver Program.

(e) Assurances that each parent of a child with a disability in participating LEAs will be given written notice (in the native language of the parent, unless it clearly is not feasible to do so) of any statutory, regulatory, or State requirements that will be waived and notice of the procedures that State will employ under paragraph 1(c) in easily understandable language.

(f) In applying for a waiver of any paperwork requirements related to the provision of FAPE, such as changes related to IEPs, applicants must assure that they will require any participating LEA to obtain voluntary informed written consent from the parents.

(g) In requesting voluntary informed written consent from parents, the LEA must inform the parent in writing (and in the native language of the parents, unless it

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clearly is not feasible to do so) of (i) any differences between the paperwork requirements of the Act related to the provision of FAPE, such as changes related to IEPs, (ii) the parent's right to revoke consent to waive any paperwork requirements related to the provision of FAPE at any time, (iii) the LEA's responsibility to meet all paperwork requirements related to the provision of FAPE if the parent does not provide voluntary written informed consent or revokes consent, and (iv) the LEA's responsibility to conduct an IEP meeting to develop an IEP that meets all requirements of section 614(d) of the Act within 30 calendar days if the parent revokes consent to waiving paperwork requirements related to the content, development, review and revision of IEPs.

(h) Assurances that the State will cooperate fully in a national evaluation of this program, if selected to participate in the Paperwork Waiver Program. Cooperation includes devoting a minimum of 4 months between the award and the implementation of the State's waiver to conduct joint planning with the evaluator. It also includes participation by the State educational agency (SEA) in the following evaluation activities:

(i) For each item in the list of statutory, regulatory, or State requirements submitted pursuant to paragraph 2 in the Statutory Requirements for Paperwork Waiver Program section of this notice, consistent with the privacy requirements of the Act and The Family Educational Rights and Privacy Act, ensuring that the evaluator will have access to the original and all subsequent new versions of the associated documents for each child involved in the evaluation, together with a general description of the process for completing each of the documents. For example, if elements of the IEP process are waived, the evaluator shall have access to the most recent IEP created under previous guidelines for each participating child (if a previous IEP was created), as well as all of the new IEPs created under the waiver, along with a description of the process for completing both types of IEPs.

(ii) Recruiting districts or schools to participate in the evaluation (as established in the evaluation design) and ensuring their continued cooperation with the evaluation. Providing a list of districts and schools that have been recruited and have agreed to implement the proposed Paperwork Waiver Program, along with a description of the circumstances under which district participation may

be terminated, allow data collection to occur, and cooperate fully with the evaluation. For each participating school or district, providing basic demographic information such as student enrollment, district wealth and ethnicity breakdowns, the number of children with disabilities by category, and the number or type of personnel, as requested by the evaluator.

(iii) Serving in an advisory capacity to assist the evaluator in identifying valid and reliable data sources and improving the design of data collection instruments and methods.

(iv) Providing to the evaluator an inventory of existing State-level data relevant to the evaluation questions or consistent with the identified data sources. Supplying requested State-level data in accordance with the timeline specified in the evaluation design.

(v) Providing assistance to the evaluator with the collection of data from parents, including obtaining informed consent, for parent interviews and responses to surveys and questionnaires, if necessary to the final design of the evaluation.

(vi) Designating a coordinator for the project who will monitor the implementation of the project and work

with the evaluator. This coordinator also will serve as the primary point of contact for the OSEP project officer.

2. For purposes of the statutory requirement prohibiting the Secretary from waiving any statutory requirements of, or regulatory requirements relating to, but not limited to, applicable civil rights, the term "applicable civil rights requirements," as used in this notice, includes all civil rights requirements in: (a) Section 504 of the Rehabilitation Act of 1973, as amended; (b) Title VI of the Civil Rights Act of 1964; (c) Title IX of the Education Amendments of 1972; (d) Title II of the Americans with Disabilities Act of 1990; and (e) Age Discrimination Act of 1975 and their implementing regulations. The term does not include other requirements under the Act.

3. Each State receiving approval to participate in the Paperwork Waiver Program will be awarded an annual incentive payment of not less than \$10,000 to be used exclusively to support program-related evaluation activities, including one trip to Washington, DC, annually to meet with the project officer and the evaluator. Each participating State will receive an additional incentive payment of not less than \$15,000 annually from the

evaluation contractor to support evaluation activities in the State. Incentive payments may also be provided to participating districts to offset the cost of their participation in the evaluation of the Paperwork Waiver Program. Total available funds will depend on the number of awards made.

Note: Receipt of an award for the Paperwork Waiver Program does not preclude an applicant from applying for and receiving an award for the Department's Multi-Year IEP Program. However, a State that receives an award for both programs may not execute both programs within the same local school district.

Note: The term "parent" as used in these requirements and selection criteria for the Paperwork Waiver Program has the same meaning given the term in section 300.30 of the final regulations implementing Part B of the Act.

Selection Criteria

The following selection criteria will be used to evaluate State proposals submitted under this program. These particular criteria were selected because they address the statutory requirements and program requirements and permit applicants to propose a distinctive approach to addressing these requirements.

Note: We will inform applicants of the points or weights assigned to each criterion and sub-criterion in a notice published in the Federal Register inviting States to submit applications for this program.

1. Significance. The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the following factors:

(a) The extent to which the proposed project involves the development or demonstration of promising new strategies that build on, or are alternatives to, existing strategies.

(b) The potential contribution of the proposed project to increased knowledge or understanding of educational problems, issues or effective strategies.

(c) The importance or magnitude of the results or outcomes likely to be attained by the project, especially improvements in teaching and student achievement.

2. Quality of the project design. The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(a) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(b) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(c) The quality of the proposed project's procedures for documenting project activities and results.

3. Quality of the management plan. The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(a) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

(b) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

Executive Order 12866

This notice of final requirements and selection criteria has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with this regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits -- both quantitative and qualitative -- of actions proposed in this notice, we have determined that the benefits of the final requirements and selection criteria justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Intergovernmental Review

This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Electronic Access to This Document

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<http://www.ed.gov/news/fedregister>

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www.gpoaccess.gov/nara/index.html

(Catalog of Federal Domestic Assistance Numbers 84.326P
Individuals with Disabilities Education Act Paperwork
Waiver Demonstration Program)

PROGRAM AUTHORITY: 20 U.S.C. 1408.

Dated:

John H. Hager,

Assistant Secretary for
Special Education and
Rehabilitative Services.

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DEPARTMENT OF EDUCATION

CFDA No. 84.326P

The Individuals with Disabilities Education Act Paperwork
Waiver Demonstration Program

AGENCY: Office of Special Education and Rehabilitative
Services (OSERS), Department of Education.

ACTION: Notice announcing application deadline.

SUMMARY: Under the Paperwork Waiver Demonstration Program
(Paperwork Waiver Program), the Assistant Secretary for
Special Education and Rehabilitative Services will select
up to 15 States to participate in a single, one-time only
pilot program. State proposals approved under this program
will create opportunities for participating States to
reduce paperwork burdens and other administrative duties in
order to increase time for instruction and other activities
to improve educational and functional results for children
with disabilities, while preserving students' civil rights
and promoting academic achievement. In this notice we
establish the deadline for submission of the Paperwork
Waiver Program grant applications.

Applications Available: (INSERT DATE OF PUBLICATION IN THE
FEDERAL REGISTER).

Deadline for Transmittal of Applications: (INSERT DATE 120 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER).

Applications for grants under this competition may be submitted electronically using the Grants.gov Apply site (Grants.gov), or in paper format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or by mail or hand delivery, please refer to section 5. Other Submission Requirements in this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under For Further Information Contact.

Deadline for Intergovernmental Review: (INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER).

SUPPLEMENTARY INFORMATION:

Background: The Paperwork Waiver Program is one of two demonstration programs authorized under the Individuals with Disabilities Education Act, as amended by the Individuals with Disabilities Education Improvement Act of 2004 (Act). These demonstration programs are designed to

address parents', special educators' and States' desire to reduce excessive and repetitious paperwork, administrative burden, and non-instructional teacher time and, at the same time, to increase the resources and time available for classroom instruction and other activities focused on improving educational and functional results of children with disabilities.

Through the Paperwork Waiver Program, established under section 609(a) of the Act, the Secretary may grant waivers of certain statutory and regulatory requirements under part B of the Act. Under section 609(b) of the Act, the Department is required to report to Congress on the effectiveness of this program.

The notice of final application requirements and selection criteria for this program are published elsewhere in this issue of the Federal Register.

Who is Eligible for an Award Under the Paperwork Waiver Program?

Eligible applicants under the Paperwork Waiver Program are: State educational agencies (SEAs) in any State, including the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam,

American Samoa, the Commonwealth of the Northern Mariana Islands.

Funding and Award Information

Estimated Available Funds: The Administration has requested \$48,903,000 for the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program for FY 2007, of which we intend to use an estimated \$150,000 for the Individuals with Disabilities Education Act Paperwork Waiver Program competition. The actual level of funding, if any, depends on final Congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Estimated Average Size of Awards: \$10,000.

Estimated Number of Awards: 15.

Project Period: 48 months.

Note: The Department is not bound by any estimates in this notice.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, and 99. (b) The notice of final application requirements and selection

criteria for this program published elsewhere in this issue of the Federal Register.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

Program Authority: 20 U.S.C. 1408, 1463, and 1481.

I. Application and Submission Information

1. Address to Request Application Package: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794-1398. Telephone (toll free): 1-877-433-7827. FAX: (301) 470-1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1-877-576-7734.

You may also contact ED Pubs at its Web site: www.ed.gov/pubs/edpubs.html or you may contact ED Pubs at its e-mail address: edpubs@inet.ed.gov

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA Number 84.326P.

Individuals with disabilities may obtain a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the Grants and Contracts Services Team listed

under For Further Information Contact in section VII of this notice.

2. Content and Form of Application Submission:

Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to the equivalent of no more than 50 pages, using the following standards:

- A "page" is 8.5" x 11", on one side only, with 1" margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and

certifications; the one-page abstract, the resumes, the bibliography, the references, or the letters of support. However, you must include all of the application narrative in Part III.

We will reject your application if--

- You apply these standards and exceed the page limit;
- or
- You apply other standards and exceed the equivalent of the page limit.

3. Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

4. Funding Restrictions: We reference regulations outlining funding restrictions in the Applicable Regulations section of this notice.

5. Other Submission Requirements: Applications for grants under this competition may be submitted electronically or in paper format by mail or hand delivery.

a. Electronic Submission of Applications.

To comply with the President's Management Agenda, we are participating as a partner in the Governmentwide

Grants.gov Apply site. Paperwork Waiver Program-CFDA Number 84.326P, is included in this project. We request your participation in Grants.gov.

If you choose to submit your application electronically, you must use the Governmentwide Grants.gov Apply site at <http://www.Grants.gov>. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

You may access the electronic grant application for the Television Access-CFDA Number 84.326P competition at: <http://www.Grants.gov>. You must search for the downloadable application package for this program or competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.326, not 84.326A).

Please note the following:

- Your participation in Grants.gov is voluntary.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.

- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not consider your application if it is date and time stamped by the Grants.gov system later than 4:30 p.m., Washington, DC time, on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30 p.m., Washington, DC time, on the application deadline date.

- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application

in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at <http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf>

- To submit your application via Grants.gov, you must complete all steps in the Grants.gov registration process (see http://www.grants.gov/applicants/get_registered.jsp). These steps include (1) registering your organization, a multi-part process that includes registration with the Central Contractor Registry (CCR); (2) registering yourself as an Authorized Organization Representative (AOR); and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see <http://www.grants.gov/section910/Grants.govRegistrationBrochure.pdf>). You also must provide on your application the same D-U-N-S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to submit successfully an application via Grants.gov. In addition you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.

- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.

- If you submit your application electronically, you must submit all documents electronically, including all information you typically provide on the following forms: Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information--Non-Construction Programs (ED 524), and all necessary assurances and certifications. Please note that two of these forms--the SF 424 and the Department of Education Supplemental Information for SF 424--have replaced the ED 424 (Application for Federal Education Assistance).

- If you submit your application electronically, you must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password-protected file, we will not review that material.

- Your electronic application must comply with any page-limit requirements described in this notice.

- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number.

(This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by e-mail. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk at 1-800-518-4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will

grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30 p.m., Washington, DC time, on the application deadline date, please contact the person listed elsewhere in this notice under For Further Information Contact and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline

date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

b. Submission of Paper Applications by Mail.

If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service:

U.S. Department of Education
Application Control Center
Attention: (CFDA Number 84.326P)
400 Maryland Avenue, SW.
Washington, DC 20202-4260

or

By mail through a commercial carrier:

U.S. Department of Education
Application Control Center - Stop 4260
Attention: (CFDA Number 84.326P)
7100 Old Landover Road
Landover, MD 20785-1506

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. Submission of Paper Applications by Hand Delivery.

If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education
Application Control Center

Attention: (CFDA Number 84.326P)
550 12th Street, SW.
Room 7041, Potomac Center Plaza
Washington, DC 20202-4260

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department--

(1) You must indicate on the envelope and--if not provided by the Department--in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245-6288.

II. Agency Contact

For Further Information Contact: Patricia Gonzalez, U.S. Department of Education, 400 Maryland Avenue, SW., room

4088, Potomac Center Plaza, Washington, DC 20202-2700.

Telephone: (202) 245-7355.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request by contacting the following office: The Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center Plaza, Washington, DC 20202-2550. Telephone: (202) 245-7363.

III. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the Federal Register, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: www.ed.gov/news/fedregister

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

Note: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available on GPO Access at: www.gpoaccess.gov/nara/index.html

Dated:

John H. Hager,
Assistant Secretary for Special
Education and Rehabilitative
Services.